

## Lapointe cont. from p. 4

appeal. Consequently, a new *habeas* hearing was conducted in May of 2010, and the decision is still pending.

In writing his dissent in 1996 to the affirmation of Lapointe's convictions, Connecticut Supreme Court Justice Robert Berdon cited U.S. Supreme Court Justice William J. Brennan regarding compelled self-incrimination: "I am unwilling to accept the risk of an erroneous determination that [a] confession was voluntary when it may in fact have been coerced...[to think otherwise] we must be prepared to justify the view that it is no more serious in general to admit involuntary confessions than it is to exclude voluntary confessions...compelled self-incrimination is so alien to the American sense of justice that I see no way that such a view could ever be justified." Justice Berdon and his colleague Justice Joette Katz were the only members of the Connecticut Supreme Court who were not comfortable allowing Richard Lapointe to be convicted on the sole basis of involuntary confessions, where the accused individual's particular disability inhered in him an "unduly submissive personality" particularly disadvantageous in the apparently unbridled and unpredictable bailiwick of the police interrogation room.

In the State of Connecticut crimes such as those alleged of Mr. Lapointe qualify for the death penalty. Richard Lapointe was spared this fate thanks in part to expert testimony in the punishment phase regarding his disability as a mitigating factor. Ironically, Lapointe's I.Q. (Intelligence Quotient) is actually above the Supreme Court's "cut-off," under which it is "cruel and unusual" and therefore illegal to submit someone to the death penalty. The Connecticut Supreme Court addressed the issue of Lapointe's I.Q. while making its decision not to overturn his conviction, and it is difficult to believe that their bias regarding the correlation between disability and I.Q. did not play a role in their finding that his confession was "voluntary." To this court, maybe, the term "intellectual disability" is synonymous with the term "low I.Q." and any further understanding is merely auxiliary. Either way, the legal system found Richard Lapointe's disability sufficient to save him from the death penalty and yet insufficient to warrant a more nuanced investigation into the context, circumstances, and police tactics inhering in his alleged "confession" to Bernice Martin's murder. So rather than enjoying the freedom that is his birthright, away from the spotlight and far from the beguiling glare of legal mysticism, Richard Lapointe has instead emerged

as an unfortunate and lasting lesson in the arbitrariness of American justice.

We know the facts of Richard Lapointe's case and they are sufficient in-themselves to establish his innocence. However, further examination yields a picture of police manipulation, discrimination, and a true miscarriage of justice which will be twenty-two-years-old this Independence Day, and an innocent man will have spent nearly one-third of his lifetime deprived of his fundamental liberty, far from his wife and son.

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### References

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10. Solomon Fulero & Caroline Everington, *Assessing the Capacity of Persons with Mental Retardation to Waive Miranda Rights: A Jurisprudent Therapy Perspective*, Law and Psychology Review, Vol. 28, p. 59 (2004).
11. Website: Friends of Richard Lapointe; "History of the Case," For more information on this case, please visit [www.friendsofrichardlapointe.com](http://www.friendsofrichardlapointe.com), a website created and maintained by one of the Friends of Richard Lapointe, Attorney Anne Treimanis, dedicated to the goal of freeing Mr. Lapointe. Over the past decade, the Friends of Richard Lapointe have worked tirelessly and devoted countless unpaid hours to his case. As defense attorney Anne Treimanis points out, it is difficult to hear about Mr. Lapointe's case "without immediately wanting to become involved."
12. Edmund Mahoney, *Lapointe Lawyers Focus On Manchester Detective's Interview Tactics*, from The Hartford Courant (May 8, 2010).
13. *State v. Lapointe*, 678 A.2d 942 (1996).
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## Defamation Conviction For Criticism Of Scientific Report Overturned

Genetically modified crops are not permitted to be grown in Peru, and their illegal introduction into the food supply is a controversial issue in the country.

Two prominent people in the public debate about the issue are Antonietta Ornella Gutiérrez Rosati, a biologist at the La Molina National Agricultural University in Lima, and biologist Ernesto Bustamante Donayre, scientific director of the private genetic-screening firm BioGenómica.

In early 2008 Gutiérrez accused Bustamante of defamation — a criminal offence in Peru — for publicly criticizing her published report that genetically modified maize was found in plots 120 miles north of Lima.

Bustamante was prosecuted and in April 2008 he was convicted of defamation. He was fined 5,000 soles (US\$1,800) and his travel was restricted.

After his conviction more than 650 scientists from around the world signed a public petition supporting Bustamante's right to publicly question Gutiérrez's findings. Biochemist Paul Englund with Baltimore's Johns Hopkins University said after Bustamante's conviction, "He's someone that speaks his mind honestly, based on data. It's outrageous that he's being criminally prosecuted for it."

Bustamante's conviction was overturned on appeal in late December 2010. The appellate court found the trial court had not demonstrated Bustamante had sufficient motivation to harm or defame his alleged victim. Afterwards Bustamante told reporters, "It would have been nice to have a judge come out and say, 'Yes, science should not be taken to court.' That's for us scientists to state and to express and to fight for."

The conclusions of a government study of the crops in question may affect the ultimate outcome of the case.

### Sources:

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